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**PUBLIC/PRIVATE COMPETITION AT
LACKLAND AIR FORCE BASE**

Report No. D-2001-118

May 14, 2001

This special version of the report has been revised to omit source selection and contractor information that may be company confidential or proprietary.

**Office of the Inspector General
Department of Defense**

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Abstract This report discusses our assessment of the Office of Management and Budget Circular A-76 public/private competition that was initiated in January 1999 at Lackland Air Force Base, Texas. The goal was selection of a supplier of base operating services offering the best overall value to the Air Force. The competition was conducted under the direction of the Air Force Air Education and Training Command, the major command for Lackland Air Force Base. The scope of the A-76 competition included 19 base operating support functions, including airfield support and workload transferred from Kelly Air Force Base, Texas, as a result of the 1995 Base Closure and Realignment Commission decision to close that base. A total of 1,482 full time equivalent personnel positions performed the functions included in the A-76 competition. We conducted the audit in response to requests from the former Deputy Secretary of Defense and from both United States Senators and four Members of Congress from Texas.		
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Acronyms and Abbreviations

AETC	Air Education and Training Command
AFB	Air Force Base
FTE	Full-Time Equivalent
L21	Lackland 21st Century Services Consolidated
MEO	Most Efficient Organization
OMB	Office of Management and Budget
PRD	Performance Requirements Document
SAIC	Science Applications International Corporation



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

May 14, 2001

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (ACQUISITION,
TECHNOLOGY, AND LOGISTICS)
SECRETARY OF THE AIR FORCE

SUBJECT: Audit Report on the Public/Private Competition at Lackland Air Force
Base (Report No. D-2001-118)

We are providing this report in response to requests from the former Deputy Secretary of Defense and both Senators and four Members of Congress from Texas.

Recommendations for systemic improvements to the Office of Management and Budget Circular A-76 public/private competitions are being made in separate memorandums to the Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics) and the Air Force.

Questions on the audit should be directed to me at (703) 604-8901 (DSN 664-8901) (dsteensma@dodig.osd.mil), Mr. Garold E. Stephenson at (703) 604-9332 (DSN 664-9332) (gstephenson@dodig.osd.mil) or Mr. Benjamin A. Mehlman at (703) 604-9291 (DSN 664-9291) (bmehlman@dodig.osd.mil). See Appendix E for the report distribution. Audit team members are listed inside the back cover.

David K. Steensma

David K. Steensma
Acting Assistant Inspector General
for Auditing

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Office of the Inspector General, DoD

Report No. D-2001-118

(Project No. D2001CH-0064)

May 14, 2001

Public/Private Competition at Lackland Air Force Base

Executive Summary

Introduction. This report discusses our assessment of the Office of Management and Budget Circular A-76 public/private competition that was initiated in January 1999 at Lackland Air Force Base, Texas. The goal was selection of a supplier of base operating services offering the best overall value to the Air Force. The competition was conducted under the direction of the Air Force Air Education and Training Command, the major command for Lackland Air Force Base. The scope of the A-76 competition included 19 base operating support functions, including airfield support and workload transferred from Kelly Air Force Base, Texas, as a result of the 1995 Base Closure and Realignment Commission decision to close that base. A total of 1,482 full-time equivalent personnel positions performed the functions included in the A-76 competition. We conducted the audit in response to requests from the former Deputy Secretary of Defense and from both United States Senators and four Members of Congress from Texas.

Objectives. Our objective was to determine whether the Air Force fairly and impartially conducted the Office of Management and Budget Circular A-76 public/private competition at Lackland Air Force Base. We also reviewed the management control program as it related to the overall objective.

Results. The Air Force did not achieve supportable results from the Lackland Air Force Base competition. The independent review officer and source selection evaluations of the Government's most efficient organization proposal were flawed. Also, the administrative appeal process failed to reasonably assess the merits of issues in the appeal submitted by the affected Government workforce. As a result, the current cost comparison results for the public/private competition lack credibility. See this report for further details.

We consider it to be the responsibility of the Air Force to consider the results of this audit and to decide a future course of action. Among the options are:

- Cancel the present solicitation and reannounce the A-76 competition at some future time.
- Modify the solicitation and performance requirements document and request submission of revised proposals.

- Direct the source selection authority to perform additional review of the directed increase of full-time equivalent positions to the Government most efficient organization and the other issues raised in this report, and appoint a new appeal authority.
- Direct a new appeal authority and appeal review team to examine the Government workforce appeal and the adjustment to the contractor's bid for incentive fee in the cost comparison.

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Background

Office of Management and Budget Circular A-76 and DoD Guidance. The Office of Management and Budget (OMB) Circular A-76 and the OMB Circular A-76 Revised Supplemental Handbook establish policy and provide guidance on the process for conducting competitions between the Government and the private sector to perform support functions. The process includes: developing the performance work statement; issuing a solicitation that includes the performance work statement; developing a Government most efficient organization (MEO); the submission of in-house and private sector proposals; and source selection evaluation culminating in a cost comparison and a decision to perform the function with Government employees or by contract. A-76 competitions usually generate savings through a reduction in personnel, whether the Government MEO or a private sector contractor wins. DoD guidance on commercial activities is contained in DoD Directive 4100.15, "Commercial Activities Program," March 10, 1989; DoD Instruction 4100.33, "Commercial Activities Program Procedures," September 9, 1985; and "Department of Defense Strategic and Competitive Sourcing Programs Interim Guidance," April 3, 2000. The Air Force initially used guidance from the 1998 Air Force Commercial Activities Program Instruction, which was superseded by Air Force Instruction 38-203, "Commercial Activities Program," August 1, 2000.

Lackland Air Force Base A-76 Competition. The Air Force formally announced the start of the OMB Circular A-76 competition on January 26, 1999. The scope of the A-76 competition included 19 base operating support functions, including airfield support and workload transferred from Kelly Air Force Base (AFB), Texas, as a result of the 1995 Base Closure and Realignment Commission decision to close that base¹. A total of 1,482 full-time equivalent (FTE) personnel positions performed the functions included in the A-76 competition². The competition was the second of five large multifunctional

¹ Kelly AFB adjoins Lackland AFB, and many of the Kelly AFB facilities and runway will realign to Lackland AFB after closure.

² This amount included 1,001 appropriated fund civilian and 438 military positions, and 43 nonappropriated fund positions as of November 15, 2000. On January 26, 1999, the Air Force announced that 1,672 DoD positions were performing functions subject to the competition, including 1,085 appropriated fund civilian, 502 military, and 85 nonappropriated fund positions. The Air Force later removed 190 personnel positions from the competition. Headquarters Air Force, disapproved an AETC request to include Lackland AFB lodging facility functions performed by 268 nonappropriated fund personnel in the A-76 competition.

competitions³ that the Air Force Air Education and Training Command (AETC)⁴ planned at its bases between 1998 and 2001. See Appendix B for a chronology showing milestone events for the Lackland competition.

Development of Performance Requirements Document and MEO. The Competitive Outsourcing Office at Lackland AFB initiated the development of the performance requirements document (PRD) on February 8, 1999. The outsourcing office formed a number of integrated process teams to develop the summary of expectations, performance requirements, workload data, and similar information for each of the functions in the PRD. The Science Applications International Corporation (SAIC) supported the integrated process teams as a consultant. AETC contracted with SAIC to provide concept planning support at AETC facilities and to assist in the development of PRDs and MEO organizations for the A-76 competitions. SAIC was tasked to provide the support in part to provide expertise and assistance and to help meet planned milestones.

Lackland A-76 Steering Group. An A-76 steering group at Lackland monitored the progress of the integrated process team effort related to the A-76 competition. The steering group was formed pursuant to the Air Force Commercial Activities Program Instruction. The steering group was composed of representatives from the manpower and quality office, servicing personnel offices, and functional offices of primary responsibility, to make decisions on behalf of management. The groups were responsible to commanders for successful and timely completion of the cost comparison process. The AETC A-76 program office, part of the office of the AETC Director of Plans and Policies⁵, monitored the progress of the Lackland A-76 effort and its compliance with the commercial activities milestones.

MEO Study Team. The MEO study team was established upon completion of the initial PRD on May 24, 1999. The study team included some integrated process team members that developed the PRD, as well as personnel from the functions included in the competition. SAIC was tasked to provide support to the MEO study team. SAIC also continued to provide limited support to the Lackland AFB Competitive Outsourcing Office and the AETC A-76 program office. The funding for SAIC support was substantially reduced and effectively ended during the month prior to the planned November 1999 MEO proposal submission.

Contract Solicitation for the Lackland A-76 Competition. The AETC issued solicitation F41689-99-R-0031 on August 9, 1999. The solicitation required offerors to submit proposals for the base operating support and airfield support

³ AETC titled the five-base competition program the “Pic-A-Base” concept. Other competitions in order of announcement were Maxwell AFB, Alabama (1998 start); Sheppard AFB, Texas (1999 start); Keesler AFB, Mississippi (2000 start); and Randolph AFB, Texas (2001 start). The Lackland AFB competition was the first of the competitions to reach a tentative cost comparison decision.

⁴ AETC is located at Randolph AFB, Texas. Lackland AFB, Kelly AFB, and Randolph AFB are located in metropolitan San Antonio.

⁵ The AETC Director of Plans and Programs was later appointed the administrative appeal authority.

functions at Lackland. The solicitation included a provision for private sector offerors to submit separate proposals for performance for base operating support functions and the airfield support functions, with the latter functions set aside for small businesses only. The solicitation specified a total performance period of 5 years and 9 months, which included a 90-day mobilization phase, a 6-month base period, and five 1-year options. The proposal winners of the two competitions would be combined for a final single cost comparison with the MEO proposal. The solicitation requested that contractors submit proposals for a cost plus-incentive-fee contract with fixed overhead for performance of the base operating support functions, and a firm fixed-price proposal for performance of the airfield support functions.

Tentative Source Selection Decision for Lackland Competition. On August 17, 2000, AETC announced that Lackland 21st Century Services Consolidated (L21)⁶, and Phoenix Management Incorporated, had won the A-76 cost comparison for the base operating support functions and airfield support functions, respectively. The contractors won the competition by \$2.4 million. The Government MEO total proposal (including a \$10 million minimum conversion reduction)⁷ was \$338.8 million and the combined contractor proposals with adjustments for contract administration and one-time conversion costs totaled \$336.4 million.

Appeal of Tentative Source Selection Decision. Affected Air Force employees at Lackland (including the President of American Federation of Government Employees Local 1367) submitted an appeal on September 15, 2000. On October 24, 2000, the AETC appeal authority reversed the initial tentative decision, and announced the MEO was the winner by about \$657,000 (\$335.7 million MEO cost versus combined contractor proposals with adjustments for contract administration and one-time conversion costs totaling \$336.4 million).

Protest of the Appeal Authority Decision. On November 6, and November 13, 2000, L21 protested the MEO selection to the General Accounting Office. On December 13, 2000, the AETC appeal authority reversed his October 24, 2000, decision, stating that after review of the protest issues and making two adjustments, the original source selection decision to award contracts to L21 and Phoenix Management was reinstated. The revised cost comparison showed that the total MEO cost was \$337.9 million and combined contractor proposals with adjustments for contract administration and one-time conversion costs totaled \$329.2 million.

⁶ L21 is a joint venture of Computer Sciences Corporation, Del-Jen Incorporated, and TECOM Incorporated.

⁷ OMB Circular A-76 Revised Supplemental Handbook requires a minimum cost differential to ensure that the Government will not convert to or from in-house or contract performance for marginal estimated savings. The differential is the lesser of 10 percent of total MEO personnel costs or \$10 million over the performance period.

Congressional and DoD Concerns about the Lackland A-76 Competition.

On December 15, 2000, the two U.S. Senators representing the State of Texas and four Members of the U.S. Congress representing the San Antonio area wrote to the Secretary of the Air Force regarding their concerns about the manner in which the Air Force conducted the Lackland A-76 competition. They requested that the Air Force delay signing all contracts resulting from the competition until the Inspector General, DoD, completed a separate and independent investigation. On December 20, 2000, the former Deputy Secretary of Defense requested the Inspector General, DoD, to review the Lackland A-76 contracting action. The former Deputy Secretary noted that the potential impact of an A-76 action on the dedicated Government workforce requires the assurance that the A-76 process is fully respected, not only to maintain fairness during the process, but also to assure the appearance of fairness. On December 21, 2000, the Senators and four Members of Congress from Texas directly requested that the Inspector General, DoD, conduct a thorough review to ensure the A-76 cost comparison study at Lackland AFB was fairly and impartially conducted.

Objectives

The audit objective was to determine whether the Air Force fairly and impartially conducted the public/private competition at Lackland. The audit also examined the management control program as it related to the overall objective. See Appendix A for a discussion of the audit scope and methodology and our review of the management control program.

Implementation of the OMB Circular A-76 Process

The Air Force did not achieve supportable results from the Lackland competition. The independent review and source selection evaluations of the MEO proposal were flawed. Also, the administrative appeal process failed to reasonably assess the merits of issues in the appeal submitted by the affected Government workforce. These conditions occurred because of the following reasons.

- The AETC and Lackland A-76 Program Office continually emphasized completion of an arbitrary and exceedingly optimistic milestone schedule established to meet the base realignment and closure of Kelly AFB scheduled for April 1, 2001.
- The contracting officer did not amend the solicitation to incorporate several responses to offeror requests for information into the PRD or to rectify inconsistencies between the PRD and contract line items.
- AETC appointed inexperienced and untrained personnel to be independent review officers, who were not independent from AETC management officials responsible for the competition.
- The independent review officers did not verify that the MEO was adequate to perform the documented tasks in the PRD and that the MEO study team properly excluded common costs from the MEO proposal.
- The source selection evaluation team did not adequately justify ^{*} additional FTE positions to the MEO.
- To expedite completion of the source selection phase, the contracting officer rejected an MEO study team rebuttal of a source selection authority-directed increase of the MEO organization, and advised the MEO study team to challenge certain costing issues during the administrative appeal period.
- The appeal authority rejected a number of the appealed FTE increases, and certain costing issues, as untimely and advised the MEO that they should have been resolved prior to completion of the cost comparison.
- The AETC Commander designated an appeal authority, who was subordinate to the source selection authority; the appeal authority did not appoint sufficient members to the appeal review team to thoroughly review the appeal issues; and the

^{*} Source selection or contractor proprietary information omitted.

same contracting officer that advised the source selection evaluation team and source selection authority also advised the appeal authority and appeal review team.

- The appeal authority reduced the amount of the incentive fee that was included in the cost comparison based upon incorrect recommendation from Headquarters, Air Force.

As a result, the most recent amounts entered on the cost comparison form for the public/private competition lack credibility.

Milestone Schedule

The Air Force conducted the Lackland competition with a scheduled time frame of 17 months from announcement to tentative cost comparison decision⁸. The arbitrary and exceedingly optimistic time frame was set at the direction of the AETC Commander to meet the April 1, 2001, base realignment and closure of Kelly AFB. The OMB Circular A-76 recommends 36 months for the performance of multifunctional competitions. Statutory time limits for completion of a multifunctional competition is 48 months. The Lackland and AETC A-76 Program Offices continually emphasized completion of milestone events as scheduled because the Kelly AFB closure and study delays would affect installation funding and the Air Force's plan for achieving savings from the A-76 competitive sourcing initiative. Specific examples of the compressed schedule that impaired the competition process are noted throughout the report discussion.

Proposal Solicitation Phase

Information Requests on Solicitation Requirements. The contracting officer was often untimely in responding to information requests from the MEO, did not respond to seven MEO information requests, and did not always amend the solicitation based upon information request responses. From August 11, 1999, to November 22, 1999, private sector offerors and the MEO study team submitted 626 information requests concerning the contract solicitation and PRD. Although Lackland Competitive Outsourcing Office procedures stipulated that the contracting officer should respond to information requests submitted by the MEO within 3 working days, the contracting officer did not respond to the first round of requests, many of which were submitted by the study team, for over a month. Moreover, some responses often took much longer than a month and sometimes there were no responses. For example, the MEO study team submitted an information request on August 25, 1999, to determine whether a requirement in the PRD was an inherently governmental function that should be outside the scope of the A-76 competition. In a separate memorandum to the contracting officer on August 25, 1999, the study team noted that proposal development was being adversely impacted because they did not receive a

⁸ The schedule was generally adhered to with actual time from announcement to tentative cost comparison being 18.5 months.

response to this and other information requests. Because of the requirement for independent review of the MEO's proposal, the MEO advised that it had to substantially complete its proposal by September 28, 1999. The contracting officer stated that she had to rely on others for most information request responses and that she had little control over response delays.

Lack of Clarifying Amendments. The contracting officer also did not prepare clarifying amendments based upon information request responses. For example, the contracting officer response to information request number 6 provided a demolition schedule of military family housing units. The schedule showed that during the performance period, the number of units to be maintained would significantly decrease. The MEO study team stated that it used information response number 6 to propose maintenance support. However, the source selection authority subsequently directed an increase of * positions to the MEO to meet the PRD level for military family housing maintenance. The contracting officer posted all responses to the information requests to a website. The website was accessible to offerors and the MEO study team in an effort to remove the chance that any offeror could gain a perceived advantage from the responses. However, the source selection evaluation team relied solely on the PRD to evaluate the MEO and the information requests were not considered.

Information Request on Common Costs. On August 11, 1999, the MEO study team submitted information request number 222 for validation of conclusions regarding common costs, as well as resolution of whether certain other items were viewed as common costs. The contracting officer's September 14, 1999, response to number 222 addressed only the latter issue. As discussed later, common costs became a major point of contention and an item that was included in the workforce administrative appeal.

Independent Review Certifications

Criteria. The OMB Circular A-76 Revised Supplemental Handbook states the following regarding the independent review officer.

- *Should be a qualified person from an impartial activity that is organizationally independent of the commercial activity being studied and the activity performing the cost comparison.*
- *Acts as an independent authority to: (a) ensure that the data contained in the Management Plan reasonably establish the Government's ability to perform the PWS⁹ within the resources provided by the MEO, and (b) ensure that all costs entered on the CCF [cost comparison form] are fully justified*

* Source selection or contractor proprietary information omitted.

⁹ PWS means performance work statement, which is the synonymous with the term performance requirements document used by the Air Force.

and calculated in accordance with the procedures described in Part II of this Supplement.

The 1998 Air Force Commercial Activities Program Instruction and Air Force Instruction 38-203, "Commercial Activities Program," August 1, 2000, contains the following guidance.

- *The [independent] review is completed far enough in advance of the bid or initial proposal receipt date to allow sufficient time for the IRO [independent review officer] to conduct the review, and the [MEO] preparer to correct any discrepancies found. Milestones will be established to ensure a minimum of four weeks for single function cost comparisons and a minimum of six weeks for multi-function cost comparisons. These time periods include total time required for both base level and command level reviews.*

Air Force Instruction 65-504, "Independent Review of Commercial Activity Cost Comparisons," February 25, 1994, contains the following guidance.

- *The Assistant Secretary of the Air Force (Financial Management) is responsible for monitoring the training for conducting independent reviews.*
- *Major Commands and Bases are responsible for establishing command policy for IRO [independent review officer] training, ensuring IRO personnel receive training in independent review procedures, designating in writing a primary IRO, and establishing teams for large, complex cost comparisons.*
- *To help ensure that the independent review meets the required level of thoroughness, AFMAN (Air Force Manual) 65-507, Independent Review Guide, provides mandatory procedures for completing independent reviews.*

Qualifications of Independent Review Officers. The principal independent review officers (review officers) who reviewed the MEO and certified the cost comparison for the Lackland competition had minimal A-76 training and, collectively, little independent review experience. In addition, the independent reviews did not include technical evaluations to demonstrate that the MEO could meet PRD requirements. The AETC, Director of Financial Management verbally assigned two¹⁰ GS-12 financial management analysts from headquarters, AETC, and the Lackland Comptroller verbally assigned a GS-11 financial management analyst from the 37th Training Wing, as the review officers (hereafter review officer A-1, review officer A-2, and review officer L). These

¹⁰ Both GS-12 financial management analysts from AETC worked on the initial independent review of the MEO proposal for the Lackland A-76 competitions in October 1999. Only one GS-12 AETC analyst participated in the subsequent independent reviews of the MEO proposal.

review officers worked together on a joint review of the MEO proposal. Review officer L worked under the general direction of review officer A-1 (until his retirement in January 2000) and review officer A-2. Review officer A-1 had performed other independent reviews of A-76 competitions, including the “Pic-A-Base” study at Maxwell AFB, prior to the Lackland study. He provided on-the-job training and limited guidance on performing A-76 independent reviews to review officer A-2 and review officer L. Neither of these individuals had participated on an A-76 independent review. Review officer L attended a 4-day course on “compare” software to prepare the cost comparison form 2 weeks before the independent review of the MEO proposal began in October 1999. Review officer A-2 received “compare” training in February 2000. Both of these review officers stated they were uncomfortable performing the independent reviews because they lacked understanding of their responsibilities. Review officer A-2 also stated that part of the guidance that review officer A-1 provided was incorrect. None of the review officers examined whether the MEO was adequate to perform the PRD. This mandatory review step was required by Air Force Manual 65-507. Because of the technical complexity and mix of the tasks and assignments being proposed for competition, neither the AETC nor the Lackland review officers were qualified to assess the ability of the MEO to perform the requirements of the PRD, without technical support.

Independence of Review Officers. The AETC and Lackland review officers lacked independence from AETC management officials responsible for the competition. Both individuals were employed by AETC and were subordinate to the source selection authority (AETC Vice Commander [a Lieutenant General]). In addition, the AETC A-76 Program Manager and the Director of the Lackland AFB Competitive Outsourcing Office imposed unrealistic time constraints for completing their review officer certifications. The review officers did not review the source selection authority adjustments to the MEO because they believed they could not question the decision of the AETC Vice Commander.

Scope of the Independent Reviews. The Lackland review officer worked on the A-76 competition from February 1999 until December 2000. She reviewed the PRD from the first draft to the last change, and participated in all reviews of the MEO proposal. The AETC review officers only reviewed the MEO proposal and subsequent proposal changes. The scope of the independent reviews did not include verification that the management plan reasonably established the Government’s ability to perform the PRD within the resources provided by the MEO. This requirement was one of the two principal objectives of the A-76 independent review. These discrepancies were caused by the following four factors.

- Review officer A-1, the only experienced review officer, did not include steps to accomplish this objective in his February 1999 Independent Review Guide.
- Review officers A-2 and L were inexperienced and not adequately trained.

-
- Review officers A-2 and L did not follow the guidance in Air Force Manual 65-507.
 - AETC and Lackland A-76 program managers imposed time limits on the review officers that were insufficient to perform the more detailed review required by the Air Force Manual 65-507 guidance.

The review officers provided the following certifications.

- November 18, 1999. The Lackland and two AETC review officers, and two people designated as base-level review officers for the future A-76 competitions at Keesler and Sheppard AFBs, conducted the initial review of the MEO proposal from October 14 through 26, 1999. They verified that the amounts on the cost comparison form were traceable to the technical performance plan, and that the MEO used correct rates in their calculations. These review officers did not verify that the MEO, management study, and the PRD were based on the same scope of work and did not perform technical evaluations to verify that the MEO could perform PRD requirements. Air Force Manual 65-507 requires that review officers trace requirements from the PRD to the MEO by reviewing supporting documentation in the management plan. There was no evidence that the AETC or Lackland review officers analyzed the contract line items in the solicitation, the information requests submitted by the MEO, or related responses, to ensure that common costs were properly excluded from the MEO proposal. Also, as part of the review process, the AETC and Lackland review officers did not assess or rely on the results of two separate technical evaluations¹¹ of the adequacy of the MEO to meet PRD requirements. Review officer A-2 stated that the review officers were not even aware of the October 1999 red team review. Review officers A-1 and L signed the initial review officer certification on November 18, 1999.
- November 23, 1999. Review officers A-1 and L recertified the accuracy of the MEO proposal after the Lackland Competitive Outsourcing Office identified an error in the service contracts area of the PRD. Review officer A-1 had suggested a 10-day extension to the proposal submission date, but the Lackland manpower official that certified the ability to implement the MEO, informed the review officers that the Director of the Lackland Competitive Outsourcing Office was opposed to an extension. After the review officer recertification, the MEO study team delivered their proposal to the

¹¹ In September 1999, Lackland functional managers performed a “Red Team Review” of the tentative MEO structure and study documentation. On October 5 to 7, 1999, AETC functional representatives performed an “AETC Validation Review.” The AETC validation reviewed the MEO technical performance plan and related documentation to ensure coverage of all PRD requirements and Air Force regulations. Members of both teams stated that the MEO structure was innovative and capable of performing the PRD requirements. However, the conclusions of neither team were formally documented. Because of the lack of documentation, we can not determine what specific changes to the MEO structure resulted from either review. AETC intends to better utilize the validation review by incorporating it into the independent review for the AETC A-76 competitions at Sheppard, Keesler and Randolph AFBs.

AETC contracting officer because November 24, 1999, was the closing date specified in the solicitation for offerors to submit their proposals.

- March 9, 2000. Review officers A-2 and L recertified the accuracy of the MEO proposal because of solicitation changes and salary rate changes for general schedule civilian employees. Review officer L began her review of the changes to the cost comparison form and the technical performance plan on March 6, 2000, with review officer A-2 starting the next day. They were informed the morning of March 6 that the MEO team had to submit a revised proposal package to the AETC A-76 Program Office with review officer certification by the close of business March 7. The review officers completed their review on the afternoon of March 9, 2000, and were thus provided less than 3 days to recertify the total MEO proposal.
- August 15, 2000. Review officers A-2 and L recertified the accuracy of the MEO proposal after the source selection authority directed an adjustment to the MEO. The review officers began their analysis on August 1 and checked corrected pages, tables, numbers, grades, and salaries for the added FTE positions in the proposal package for consistency, and reviewed the revised cost comparison form. They also started a review of cost concerns relating to the MEO that the source selection evaluation team had identified, but never finished the review. A log maintained by review officer L states that review officer A-2 asked the MEO study team to review the concerns on August 14. The review officers A-2 and L, during a September 29, 2000, meeting with the appeal review team, told them that they never finished the review of the source selection evaluation team concerns because they were given only 15 days to recertify the total MEO proposal.
- October 23, 2000. Review officers A-2 and L certified the accuracy of the revised cost comparison form that reflected the appeal authority's October 20 decision and related recalculations. The review officers verified changes in the new cost comparison form against the old cost comparison form. The review only lasted about 1 hour and 15 minutes.
- November 28, 2000. Review officer A-2 certified the accuracy of the revised cost comparison form that included the application of a 35 percent reduction to the contractor's fee and an increase of seven FTE positions to the MEO.

Review Documentation. The review officers did not document their reviews in accordance with Government Auditing Standards for Federal organizations. This situation occurred because the OMB Circular A-76 Revised Supplemental Handbook, and DoD guidance does not specify standards for conducting or documenting an independent review. In addition, the AETC and Lackland review officers did not complete the checklist from Air Force Manual 65-507, or prepare memorandums for record to document the basis for the "yes or no"

checklist answers. Review officers A-1 and A-2 relied on review officer L to maintain supporting documentation for the independent reviews. Review officer L documentation consisted of a log from January 1999 to December 2000; memorandums identifying discrepancies between the MEO technical performance plan, core documents, and supporting spread sheets; files containing the PRD and changes; signed cost comparison form certifications, and various e-mail correspondence. The review officers did not prepare working papers to document the steps performed, the extent of testing and verification, and supervisory reviews.

We believe that review officers should prepare working papers that contain sufficient information to enable an auditor or any oversight official having no previous connection with the independent review to ascertain the evidence that supports the independent reviewer's certification and the quality of the independent review.

Management Control Weakness. The review officer process is a material management control for ensuring the credibility of the MEO; the reliability and accuracy of amounts presented on the cost comparison form; and the credibility, impartiality, and fairness of the A-76 process. The AETC and Lackland review officers were not effective for the Lackland A-76 competition. Their inadequate reviews created additional work for the source selection evaluation team, contributed to the need for the source selection authority-directed increase to the MEO, and failed to discern inconsistencies and problems in the solicitation that should have been corrected. The Army and the Navy have assigned the independent review responsibilities for large A-76 competitions to their Auditor Generals to ensure independence. Regardless of whether internal auditors or other personnel are used for this function, the Air Force needs to ensure that the following options are completed.

- Train review officers on the OMB Circular A-76 process prior to assigning independent review responsibilities.
- Obtain technical support, as appropriate, to assess the ability of the MEO to perform the requirements of the performance work statement or the PRD.
- Assign review officers that are organizationally independent from management officials responsible for the competition.
- Require review officers to verify that the management plan and technical performance plan document how the MEO will perform the work in the PRD, and that no inconsistencies exist between these documents.
- Require review officers to document their reviews in accordance with requirements similar to Government Auditing Standards.

The Air Force should also reiterate that major commands and installations review officers adhere to the guidance timelines established in section 16.3 of

the Air Force Instruction 38-203 when conducting reviews. We are making recommendations along these lines in separate correspondence to the Air Force.

Source Selection Process

Criteria. The OMB Circular A-76 Supplemental Handbook states that:

- *As required by the FAR (Federal Acquisition Regulation), the Government should establish a Source Selection Authority, including assurances that there are no potential conflicts of interest in the membership of the Authority.*
- *The Authority reviews contract and interservice support agreement offers and identifies that offer which represents the "best overall value to the Government." This contract offer competes with the Government's in-house cost estimate.*
- *With the selection of the competitive offer, the contracting officer submits to the Authority the Government's in-house Management Plan, which must comply with the technical proposal requirements of the solicitation. The Authority evaluates the in-house offer and assesses whether or not the same level of performance and performance quality will be achieved. The Authority shall not review or have access to the in-house cost estimate.*
- *The Government makes all changes necessary to meet the performance standards accepted by the Authority. Revised cost estimates are resubmitted to the IRO [independent review officer] for acceptance. This will assure that the Government's in-house cost estimate is based upon the same scope of work and performance levels as the best value contract offer.*
- *For a negotiated or best value procurement, after selection of the private sector's most advantageous proposal, and all necessary adjustments have been made to ensure that the Government's in-house cost estimate and other offers are based upon the same scope of work and performance standards, the contracting officer opens the Government's in-house cost estimate, and announces the results of the CCF [cost comparison form].*

Section M of the contract solicitation identified the evaluation criteria that the Government would use to evaluate contractor proposals using a best value procurement and the procedures for performing the cost comparison with the MEO. In regard to the cost comparison, it states:

- *If the SSA [source selection authority] determines that the MEO proposal represents a comparable level of performance*

and performance quality to the best value contractor's proposal, then the SSA will direct completion of the cost study. At that time, the Government will open the MEO's bid, complete the cost comparison form, and make the cost comparison decision . . .

- *However, if the SSA [source selection authority] determines that the MEO proposal does not represent a comparable level of performance and performance quality to the best value contractor's proposal, then the SSA will direct the MEO to adjust its TPP (technical performance plan) or MP (management plan), or both, to a comparable level. Once the SSA is satisfied that equity has been achieved, the MEO will revise its in-house cost estimate to reflect the changes. After the Government conducts an independent review to ensure the in-house estimate is accurate, the Government then will complete the cost comparison form and make the cost comparison decision.*
- *In conducting the cost comparison between the best value contractor and the MEO, the Government will add the total proposal price of the best value "Airfield Support" contractor to the total proposal price of the best value "Base Operating Support" contractor. The Government will compare this sum against the MEO's total bid for all services, including Airfield Support. The cost comparison decision will result in either all contract performance or all MEO performance, not a combination of the two.*

Source Selection Organization. The source selection organization, as described in the Source Selection Plan, for the Lackland A-76 competition, consisted of the source selection authority, the source selection evaluation team, and source selection advisors (attorney and contracting officer). The AETC Commander appointed the AETC Vice Commander (a Lieutenant General) as the source selection authority on June 7, 1999. The source selection authority appointed the Director for Plans and Policy, 37th Training Wing, Lackland, as source selection evaluation team chair, and the source selection evaluation team chair appointed 17 other members to the source selection evaluation team on October 15, 1999. The members of the source selection evaluation team were all military personnel assigned to Randolph, Lackland, and Kelly AFBs. Three¹² members were assigned to positions that were directly affected by the A-76 competition. The "affected" source selection evaluation team members were not disqualified from participation because no prohibition existed at the time of their appointment or at the time of the source selection authority's tentative decision on August 17, 2000. On September 9, 2000, OMB issued the following guidance.

¹² A fourth person assigned to the source selection evaluation team was removed after he disclosed a potential conflict. The member's spouse worked for a company that intended to participate in the A-76 competition.

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- *It is good business practice to exclude individuals who are directly affected by an A-76 cost comparison from participating in a Source Selection Board (SSB) for the resulting contract. The source selection process is most effective when decision makers are chosen independent of the function under review. OMB readily acknowledges that the employment of military service personnel will not be adversely affected by the decision to retain or convert work to or from in house, contract or interservice support agreement performance. However, we do not believe that including military personnel, whose current jobs, local responsibilities, assignments and even supervisory relationships could be affected, is a good business practice in the context of an A-76 cost comparison.*

Evaluation of the MEO. After the selection of the best value contractors, the source selection evaluation team opened the MEO study team's sealed management plan and technical performance plan. The source selection evaluation team was unfamiliar with the plans because they differed substantially in quantity, length, and format from the plans submitted by the best value contractors in response to the solicitation. The MEO team submittals were required, for the most part, by OMB guidance. The source selection evaluation team began its review of the MEO's technical performance plan and management plan on May 19, 2000. The source selection evaluation team issued * evaluation notices in three rounds and held numerous discussions with the MEO study team from May 26 through July 11, 2000. SAIC support was not provided to assist the MEO study team in responding to the evaluation notices or to prepare for discussions with the source selection evaluation team after the selection of the best value contractors. A cost price analyst was made available to the MEO study team to answer contracting questions.

Deficiency Procedures. Evaluation notices are categorized as "clarification," "discussion," or "deficiency."¹³ Air Force characterization procedures require the issuance of deficiency notices when a proposal does not meet requirements of the PRD. Of * evaluation notices requiring response,¹⁴ * notices (* percent) were marked clarification, * notices (* percent) were marked discussion, * notices (* percent) were marked deficiency, and * notices (* percent) were unmarked. * of the * deficiency notices pertained to the * and were resolved, for the most part, before the last round of discussions. Other deficiency notices included *. The other evaluation notices ranged from

* Source selection or contractor proprietary information omitted.

¹³ The Air Force Source Selection Procedures Guidance defines "clarifications" as limited exchanges that involve clarification of certain aspects of the proposal or resolution of minor or clerical errors. The guidance states that "discussions" are required for those areas of a proposal that are considered deficient, where weaknesses exist, or where other aspects of the offeror's proposal are significant enough to affect the selection decision, and/or where data presented by the offeror is unclear.

¹⁴ The source selection evaluation team retracted [source selection information omitted] evaluation notices issued.

requests for clarification regarding * , to fairly mundane issues such as * , and * . Given the significant staffing deficiencies that were identified only after discussions were closed, the evaluation notices did not convey to the MEO that the source selection evaluation team considered its staffing deficient by a significant amount. In fact, the MEO study team members were shocked when they eventually received notice of the quantity of the adjustments ordered by the source selection authority. The source selection evaluation team issued clarification notices in * of the * functional areas that were identified to the source selection authority as deficient.

MEO Ability to Perform PRD. A major issue of contention throughout the evaluation and discussion period was the ability of the MEO to perform the PRD. The MEO had proposed a radically different organization, staffing, and concept of operations from the existing organizational structure. The discussions involved attempts by the MEO study team to explain the basis of proposed efficiencies and staffing in its management plan, and the source selection evaluation team's concerns regarding how the MEO could perform certain functions in the PRD. Some personality conflicts between the MEO study team and source selection evaluation team occurred, as well as disputes regarding the clarity of MEO study team responses, and a perception, by some, that the MEO was unable to compromise. The MEO study team increased staffing by * FTE positions during the evaluation notice process. However, in some instances the study team increased staffing in response to one or more notices but decreased staffing elsewhere without explaining the reduction or with minimal explanation. On July 5, 2000, the contracting officer issued a letter advising the MEO that further changes and discussions would be closed after the MEO study team responded to the third round of * evaluation notices. The letter was issued on Wednesday with a response required by the following Monday morning. The MEO study team was able to meet the deadline after working approximately 16 hours per day.

Source Selection Evaluation Team Determination. Only after the receipt of all responses to the evaluation notices did the source selection evaluation team determine the numbers of FTE positions it believed were necessary to perform the PRD requirements. Source selection evaluation team personnel stated they did not compare the MEO to the contractor's performance level in order to determine the amount of the directed MEO staffing. For the most part, the source selection evaluation team numbers were based on historical workload information from the PRD. As a result of this analysis, the source selection evaluation team determined the need for a * percent increase in MEO staffing. The source selection evaluation team also determined the need for a * percent increase in MEO staffing for * . MEO staffing was increased by * percent for specific subfunctions such as * .

Source Selection Authority-Directed Adjustments. On July 12, 2000, the source selection evaluation team briefed the source selection authority on its findings after the evaluation of the MEO. The source selection evaluation team reported that the proposed MEO required an increase of * FTE positions in * functional areas to perform the requirements in the PRD. On July 13, 2000,

* Source selection or contractor proprietary information omitted.

the source selection authority directed the MEO study team to adjust the MEO technical performance plan and management plan by adding * FTE positions¹⁵. The difference in adjustment amounts occurred because of a source selection evaluation team error in computing the existing MEO structure. The source selection evaluation team detected the error while preparing the source selection authority directive memorandum and reviewing the accompanying justification for the adjustments. The source selection authority-directed adjustments ranged from * additional FTE positions for * functional areas to * additional FTE positions for the * functional area. The MEO study team was excluded from the source selection evaluation team briefing to the source selection authority and did not become aware that the source selection evaluation team had recommended the adjustments to the MEO until it received the July 13, 2000, source selection authority directive. The source selection authority also directed the MEO to submit a complete revised proposal that included the additional FTE positions by July 19, 2000. The arbitrarily short proposal revision period was to maintain compliance with the milestone schedule for completing the A-76 competition.

Inspector General, DoD, Analysis of Source Selection Authority-Directed Changes. Of the * FTE positions included in a source selection authority-directed increase of the MEO organizational structure, * FTE positions were not justified. We estimate that \$ * in unneeded personnel and related overhead costs may have been added to the MEO bid because of the unsupported (* FTE) portion of the directed increase. See Appendix D for our analysis of the source selection authority directed changes.

MEO Team Rebuttal, Contracting Officer Response, Revised MEO Proposal, and Protest to General Accounting Office. On July 16, 2000, the MEO study team forwarded the contracting officer a written rebuttal to the source selection authority-directed adjustments. The letter requested that the source selection authority rescind the July 13, 2000, memorandum. On July 17, 2000, the contracting officer advised the MEO study team that its rebuttal was rejected because discussions were closed. On July 19, 2000, the MEO study team submitted a revised proposal that included the directed adjustments. The source selection evaluation team reviewed the revised MEO proposal and briefed the source selection authority on July 26, 2000, that the MEO level of performance and performance quality was equivalent to the best value contractors. The MEO study team filed a protest with the General Accounting Office on July 27, 2000, that reiterated the arguments raised in the rebuttal to the source selection authority-directed adjustments. The Air Force General Counsel withdrew the protest on July 31, 2000. The General Accounting Office has previously determined that Government employees do not have standing to bring protests regarding A-76 competition outcomes.

* Source selection or contractor proprietary information omitted.

¹⁵ The MEO study team eventually added [source selection information omitted] FTE positions to the organizational structure with the remaining [source selection information omitted] FTE positions accounted for through [source selection information omitted].

Tentative Cost Comparison Decision. On August 15, 2000, the MEO study team leader signed the cost comparison form certifying the MEO. Review officer A-2 signed the cost comparison form certifying that all costs were properly presented and justified. The MEO study team leader signed the cost comparison form because the representative on the MEO study team from Lackland Manpower Office, who had certified prior versions of the cost comparison form, refused. The official disagreed with the revised MEO because he believed the source selection authority directed adjustment was not supported. The study team leader signed the certification to avoid disqualification of the MEO proposal. This MEO certification did not comply with the OMB A-76 Revised Supplemental Handbook because the MEO study team leader was not organizationally independent of the function under study and was included in the MEO.

Personnel from the AETC A-76 program office opened the MEO cost proposal without the presence of the contracting officer on August 17, 2000. Although we did not find any evidence that the cost comparison form had been changed or tampered with, this action was clearly contrary to OMB guidance. During the review of the MEO cost proposal, a question arose about common costs. Fixed or “plugged” prices were included in the contract line item schedule for five common costs such as replacement of government equipment. These prices were fixed for all offerors and totaled \$40.86 million for the performance period. Review officer A-2 advised that the MEO included some common costs but could not quantify those costs. After consultation between the AETC Program Office, review officers, contracting officer, and AETC legal counsel, the contracting officer and the AETC Program Office decided further action was unnecessary. All parties agreed to proceed with the selection, and to advise the MEO study team that it could submit an appeal to the AETC appeal authority. Deleting the “plugged” line items from the cost comparison deviated from the evaluation criteria in section M of the solicitation which specified that the “total proposal price” of the contractors would be “compared to the MEO's total bid for all services.” If the government intended to remove the contract line items from the cost comparison, section M should have specified that the “plugged” line items would not be included in the final cost comparison. Having deleted the “plugged” line items from the contractors' costs, the MEO common costs should have been deleted from its proposal. We determined the MEO proposal included \$* in common costs for material, supplies and equipment¹⁶.

The contracting officer then declared L21 and Phoenix Management as the tentative winners. The contracting officer's announcement was 1 day ahead of the August 18 milestone for the conditional award announcement that the source selection evaluation team briefed to the source selection authority on July 12. On September 6, 2000, the contracting officer and source selection evaluation team chair debriefed the MEO study team.

Pending DoD Interim Guidance. As of April 2001, the Office of the Deputy Under Secretary of Defense (Installations) is performing final revisions to

* Source selection or contractor proprietary information omitted.

¹⁶ See Appendix C for Inspector General, DoD, analysis of study common costing items.

pending guidance on the impact of best value procurements on the A-76 cost comparison process. The guidance would limit the role of the source selection authority in the evaluation of the MEO proposal to assess whether the in-house offeror is proposing the same level of performance and performance quality (for example, outputs) as required by the performance work statement and as proposed by the selected offeror. The guidance would prohibit the source selection authority from requiring specific changes to the in-house approach or MEO staffing requirements. The pending guidance emphasizes that determination that the MEO has sufficient resources (for example, FTE positions) is the responsibility of the individual who certifies the MEO and the review officer. As the guidance is pending approval, we will not make recommendations regarding the source selection authority's adjustments to the MEO proposal.

Administrative Appeals Process

Criteria. The OMB Circular A-76 Supplemental Handbook states:

- *The A-76 Administrative Appeals Process is invoked following a tentative cost comparison decision.*
- *The appeal must be submitted by an eligible appellant within the appeal period. An eligible appellant includes Federal employees (or their representatives) and contractors that have submitted formal bids or offers who would be affected by a tentative decision to convert to or from in-house, contract, or interservice support agreement performance as a result of a cost comparison.*
- *An appeal must address specific questions regarding an agency's compliance with the requirements and procedures of this Circular, address specific questions regarding the costs entered by the Government on the applicable cost comparison form and set forth the rationale for questioning those items, or identify specific instances of agency denials of information not otherwise protected by law or regulation.*
- *An appeal must demonstrate that the items appealed, individually or in aggregate, would reverse the tentative decision.*
- *With receipt of an eligible appeal, the official (assistant secretary or equivalent level and officials at a comparable level in major component organizations designated to have responsibility for implementation of the Circular) assigns an official(s) to serve as the A-76 Administrative Appeal Authority for that appeal. The individual(s) selected must be independent of the activity under review or at least two organizational levels above the official who certified the*

Government's Management Plan and MEO, in the case of a tentative cost comparison appeal.

- *The Appeal Authority ensures that the cost items challenged in the appeal are properly accounted for in accordance with the procedures of Part II of the A-76 Supplemental Handbook, [and] that all participants to the cost comparison process have appropriate access to the decision process.*
- *If significant problems with the cost comparison estimates are found, such that the tentative decision may be unsupported or is in error, the Appeal Authority corrects the error and cost comparison, if applicable, and the agency proceeds according to the amended decision. The Authority will not review any item not formally challenged by an eligible appellant.*
- *Agency A-76 Administrative Appeal procedures do not apply to questions concerning Government management decisions involving the Government's certified in-house MEO.*
- *The appeals procedure should provide for a final decision within 30 days of receipt of the appeal by the Appeal Authority.*

The Federal Acquisition Regulation subpart 7.3—"Contractor Versus Government Performance," section 7.307, "Appeals," references the Handbook guidance and reemphasizes that:

- *The appeals procedure shall provide for an independent, objective review of the initial result by an official at a higher level than the official who approved that result.*

The Under Secretary of Defense for Acquisition, Technology, and Logistics issued interim guidance on April 3, 2000, that states:

- *Appeals are part of the deliberative process and, therefore, are not to be released to other parties (i.e., affected or not affected) until the AAP [administrative appeals process] is completed and a final A-76 cost comparison decision is made.*
- *Personnel involved in the A-76 cost comparison process may not be part of the AAP [administrative appeals process] but may provide information, data, or explanations regarding the basis for determinations or decisions made during the A-76 cost comparison process. The AAP should solicit assistance from anyone necessary in evaluating the appeal.*
- *The AAP [administrative appeals process] Authority shall validate discrepancies identified in the appeal and shall ensure the appropriate changes are made to the cost comparison form. The AAP Authority shall ensure a complete*

audit trail (with rationale) is maintained to document all corrections.

Air Force Instruction 38-203, "Commercial Activities Program," states:

- *Upon expiration of the date specified for receipt of contract/ISSA [interservice support agreement] offers, revisions or changes to the Government Cost Estimate are only permitted: If cost comparison rates or factors change. If changes to the Management Plan (i.e., TPP [technical performance plan]), as directed by the SSA, [source selection authority] impact the cost estimate, If directed by the AAP [administrative appeals process] Authority, or If due to an amendment to the solicitation.*

Appointment of Appeal Authority. On April 10, 2000, the AETC Commander appointed the AETC Director of Plans and Programs, a Brigadier General, as the AETC Administrative Appeal Process Authority for the A-76 competitions at Lackland and Maxwell AFBs, and all future AETC A-76 competitions. The appointment complied with A-76 requirements that the appeal authority be at least two organizational levels above the person certifying the MEO, and independent of the functions being cost compared. However, the appointment was an apparent conflict because the AETC Director of Plans and Programs was subordinate to the AETC Vice Commander (a Lieutenant General), whom the AETC Commander had appointed as source selection authority. As the appeal challenged staffing adjustments made to the MEO, the appeal authority essentially was being asked to determine the propriety of decisions made by a superior officer in command as well as by rank. The appearance of fairness was significantly compromised under these circumstances. The appeal authority should have been selected from another major command, and been senior in rank to the source selection authority in order to provide an objective and independent appeal of the issues raised by the MEO study team. An outside independent appeal authority is particularly necessary when the appeal raised issues pertaining to changes that were directed by the source selection authority.

Appeal Submitted. Government employees affected by the decision submitted an appeal to the initial cost comparison decision on September 15, 2000. The appeal addressed three areas: MEO costing issues, the source selection authority-directed adjustment to the MEO, and proposed contractor costs.

Composition of Appeal Review Team. The appeal authority appointed three civilians from Headquarters, AETC, as the appeal review team (review team) on September 20, 2000. The review team and appeal authority advisors included an AETC Staff Judge Advocate officer, who had no previous involvement with the Lackland A-76 competition; the AETC contracting officer responsible for the Lackland A-76 contract, who had also advised the source selection evaluation team and source selection authority; an AETC A-76 Program Office representative previously involved in the oversight of the competition; and three other AETC contracting personnel. The assignment of the responsible contracting officer and the A-76 Program Office representative, and their active

participation in review team meetings, compromised the appearance of independence and impartiality of the administrative appeal process. Participation of these individuals was inconsistent with the DoD interim guidance that stated anyone participating in the A-76 cost comparison process shall be ineligible to be the appeal authority or serve on an appeal authority board. Although the guidance does not specifically address “advisors,” the active participation of these personnel in meetings gave the appearance that they were ad hoc members of the review team. The review team (three members) was also insufficiently staffed to perform and document a detailed analysis of the appeal issues, including examining the underlying justifications for each of the source selection authority-directed adjustments to the MEO. Only one member of the review team had any relevant acquisition training and experience and another member had limited A-76 training or experience. Even though the review team received an extension beyond an initial 30-day period to decide the appeal, the review team members admitted that they were under pressure to meet the competition milestones. The review team felt that more time was needed to decide the appeal.

Appeal Authority Review. The review team met from September 18 through October 20, 2000, to examine the appeal items. Items in the appeal were divided among specific team members for review. The team discussed the items and assessed the tentative decision. The advisors assisted the team members with reviewing the appeal issues. The review team determined that it would not review items that the MEO study team and review officers should have caught prior to the MEO cost proposal submission. The review team did not look at the following: material and supply inflation factors, whether the MEO escalated wages for Service Contract Act-type positions, and whether the MEO proposal included work above minimum requirements. Team members stated they reviewed the * FTE positions added to the MEO by source selection authority direction and reviewed the related source selection evaluation team notices to ensure the MEO could do the work in the PRD. Team members entertained challenges only if based upon facts that were not known to the source selection evaluation team and source selection authority at the time. The team believed the other challenges to the FTE increases constituted management decisions, which were not reviewable. The review team believed that the PRD requirement, upon which the source selection evaluation team based an adjustment of seven FTE positions for elevator maintenance at Wilford Hall Medical Center, was performed by an existing contract. The team concluded the source selection evaluation team was not aware of the contract, so the source selection authority increase to the MEO was unwarranted. However, team members admitted that because of time constraints, they did not review the actual contract to determine whether the contract scope applied to the seven FTE positions.

The appeal authority announced on October 24, 2000, that the MEO was the winner of the A-76 competition. The review team approved 2 appeal issues, partially approved 3 issues, and denied 19 issues. The team did not maintain an audit trail for the analysis supporting its conclusions regarding the seven FTE positions. An attachment to the October 24 appeal authority decision

* Source selection or contractor proprietary information omitted.

memorandum documents the rationale for each conclusion for each appeal issue. However, documentation on who reviewed each appeal item and when, the results of interviews, and similar information was not maintained.

Subsequent Appeal Authority Decision

L21 protested the selection of the MEO to the General Accounting Office on November 6 and 13, 2000. Six allegations were forwarded in the protest. On November 8, 2000, the contracting officer concluded in a statement of fact and finding that one of the six protested allegations was supported. The appeal decision erroneously reduced the MEO by the seven FTE positions for elevator maintenance at Wilford Hall Medical Center. The contracting officer statement did not address the remaining protest issues.

AETC Requested External Review. AETC also requested that the Office of the Deputy Assistant Secretary of the Air Force (Contracting), the Air Combat Command, the Air Force Material Command, the Air Force Reserve Command, the Air Force Manpower and Innovation Agency, and the Air Force Space Command provide a representative to review all of the protest allegations. After conducting an initial review of the contracting officer's statement of fact and finding, the representatives focused their attention on the seven FTE issue. The representatives wrote separate memorandums to document their conclusions that the appeal authority had mistakenly removed seven FTE positions for Wilford Hall Medical Center support on November 17, 2000. The representatives concluded that MEO subcontract *, would not support the work of the seven FTE positions.

Application of Fee. L21 also protested including 100 percent of its proposed target fee in the cost comparison with the MEO. On November 28, 2000, the Associate Deputy Assistant Secretary of the Air Force (Contracting) advised AETC to reduce the contractor-proposed target fee by 35 percent for inclusion in the cost comparison. The Associate Deputy Assistant Secretary made the recommendation without an analysis of solicitation provisions and a legal review of the position. The recommendation was based on a requirement from Air Force Instruction 38-203, that 65 percent of the potential maximum incentive or award fee, plus the contract cost of the most advantageous offer to the Government be entered on the cost comparison form for contracts with an incentive or award fee.

Contract Fee Requirements. For the base operating support portion of the requirement, the solicitation requires offerors to propose total target cost as well as a total target fee. The solicitation provided that there was no maximum fee and a target fee of zero was unacceptable. The fee would be increased or reduced by 50 cents for every dollar over or under the total target costs. The contractor's fee could be reduced further based upon quality performance factors. L21 proposed a total incentive target fee of \$ *, and AETC included

* Source selection or contractor proprietary information omitted.

the entire fee in the contractor's cost on performance in the cost comparison form. L21 could receive substantially more fee if it performs quality services at less than the target costs.

Adjustment of Target Fee. The appeal authority directed that only 65 percent of the incentive fee should be included in the contractor's costs stated in the cost comparison form, which reduced the contractor's cost of performance by \$^{*}. OMB Circular A-76 Revised Supplemental Handbook states that the incentive fee shall be 65 percent of the "potential maximum incentive or award fee," plus the contract costs of the most advantageous offer. We concluded that there was no maximum fee provided in the solicitation and it was not possible to mathematically quantify the maximum fee¹⁷. We believe DoD needs to provide guidance on this issue.

Other Fairness Issues

Alleged Conflict of Interest. The San Antonio Express News article, "Firm's Tie to Base in Question," December 26, 2000, states that the former Lackland AFB vice commander was hired by L21. Union officials alleged to us that the Vice Commander was hired because of his knowledge of the PRD requirements and the structure of the MEO organization. We found no evidence to substantiate the allegation. The vice commander retired from the Air Force at the end of 1999 and joined L21 shortly afterwards. The former vice commander recused himself from the A-76 competition on May 5, 1999. Prior to the recusal, the Vice Commander was a member of the Lackland A-76 study steering group and received briefings on the development of the PRD. An initial draft of the PRD was completed in late May 1999, about 2 weeks after the Vice Commander's recusal. The fourth draft of the PRD was incorporated into solicitation F41689-99-R-0031, which was issued August 9, 1999. All A-76 program office and MEO study team personnel interviewed stated that they had no contact with the Vice Commander regarding the A-76 competition after his recusal. Therefore, there was no indication that he had access to MEO study team documentation or the structure of the MEO organization.

Release of Workforce Appeal to Best-Value Contractor. On about October 13, 2000, prior to the appeal authority's decision, the Air Force Principal Deputy Assistant Secretary (Acquisition and Management) verbally requested senior AETC managers to release the Lackland workforce appeal to L21. The source selection authority advised the Principal Deputy Assistant Secretary that, based on current DoD interim guidance, AETC could not release the workforce appeal to L21 until the appeals process was completed. However, on October 11 and 18, 2000 the AETC contracting officer provided

^{*} Source selection or contractor proprietary information omitted.

¹⁷ Fee would be increased as costs are reduced. Theoretically, performance costs could be reduced almost indefinitely. However, there would be some point where further reduction in contract costs would result in fee reductions based upon declining quality. See Appendix C for further discussion of fee scenarios.

limited workforce appeal information to L21. The contracting officer also provided L21 with a redacted copy of the workforce appeal on November 3, 2000.

MEO Legal Support. The MEO study team received minimal legal support from the Lackland AFB legal advisor assigned to provide support. The advisor stated that she had a potential conflict of interest because she also was providing support to the Lackland A-76 Steering Committee. The legal advisor further stated that she discussed the potential conflict with her Lackland Staff Judge Advocate Office supervisor, but that no other attorneys experienced in Government contracting were available to advise the MEO. As a result, the Lackland legal advisor did not review information requests submitted by the MEO to the contracting officer, MEO responses to source selection evaluation team notices, or the MEO rebuttal to the source selection authority directed changes. In regard to the last item, the legal advisor believed this to be legal advocacy, which AETC had directed her not to provide. We believe that, in the interest of fairness, the Air Force should have ensured better legal support to the MEO study team. We also believe DoD needs to provide general guidance on this issue.

Conclusion

The current cost comparison results for the Lackland public/private competition lack credibility. Significant portions of the MEO cost proposal were misstated or unsupported. MEO cost proposal overstatements included \$ * in personnel and related overhead in unsupported source selection authority-directed increases; and \$ * in material, supply and equipment common costs. In addition, the contractor proposal may have been inappropriately adjusted downward because of misapplication of the OMB Circular A-76 factor for maximum contract award fee.

The results of the audit are being provided to the Air Force without a recommendation on the disposition of the Lackland AFB contract award, because we believe it is the responsibility of the Air Force to weigh all relevant factors and decide among the various potential courses of action. We are, however, making recommendations for systemic improvements to the Air Force and DoD A-76 processes, in separate correspondence.

* Source selection or contractor proprietary information omitted.

Appendix A. Audit Process

Scope

The scope of the Lackland AFB A-76 competition included 19 base operating support functions, including airfield support and workload transferred from Kelly AFB, Texas. The audit evaluated:

- the PRD development process, issuance of the solicitation; and development of the Government's MEO proposal;
- the review officer analyses and certifications of the MEO and cost comparison;
- the source selection process and actions by the contracting officer;
- the administrative appeal process and review of contractor protest issues;
- interaction of AETC and Lackland AFB management with employees affected by the competitive sourcing study, and
- an alleged conflict of interest involving the Lackland AFB Vice Commander.

Methodology

Documentation Reviewed. We reviewed and analyzed July 1997 through April 2001 documentation related to the solicitation including PRD; the MEO, L21 and Phoenix Management proposals; the source selection process; the independent reviews; the administrative appeal; actions by the contracting officer; and the contractor protests. We did not attempt to verify or evaluate MEO or contractor costing or technical proposal methodology.

Use of Computer-Processed Data. The audit relied on computer-processed cost comparison data calculated by the OMB Circular A-76 Commercial Activities Cost Comparison System software program, known as "compare." This Air Force-developed program was initially released in November 1994 and has been the software generally accepted for performing A-76 cost comparison studies by all the Military Services as well as Federal agencies. Audits of the program by the Army Audit Agency and the Air Force Audit Agency concluded that program cost comparison computations adequately document costs in accordance with the OMB Circular A-76 Revised Supplemental Handbook guidance. Nothing came to our attention as a result of specified procedures that caused us to doubt the reliability of the computer-processed data.

Use of Technical Assistance. We received technical assistance from the Quantitative Methods Division of the Office of the Assistant Inspector General for Auditing in analysis of the application of target fee issue.

Audit Type, Dates and Standards. We performed this program audit from December 2000 through May 2001 in accordance with auditing standards issued by the Comptroller General of the United States, as implemented by the Inspector General, DoD. Accordingly, we included tests of management controls considered necessary.

Contacts During the Audit. We interviewed Air Force employees, officials of the American Federation of Government Employees, and support service contractor personnel during the audit. Air Force personnel included A-76 study management, MEO study team, source selection authority/source selection evaluation team, contracting, technical, and legal personnel located at Lackland AFB, AETC, and Air Force Headquarters.

Prior Coverage. No prior audit coverage has been conducted on the subject during the last 5 years.

Management Control Program Review

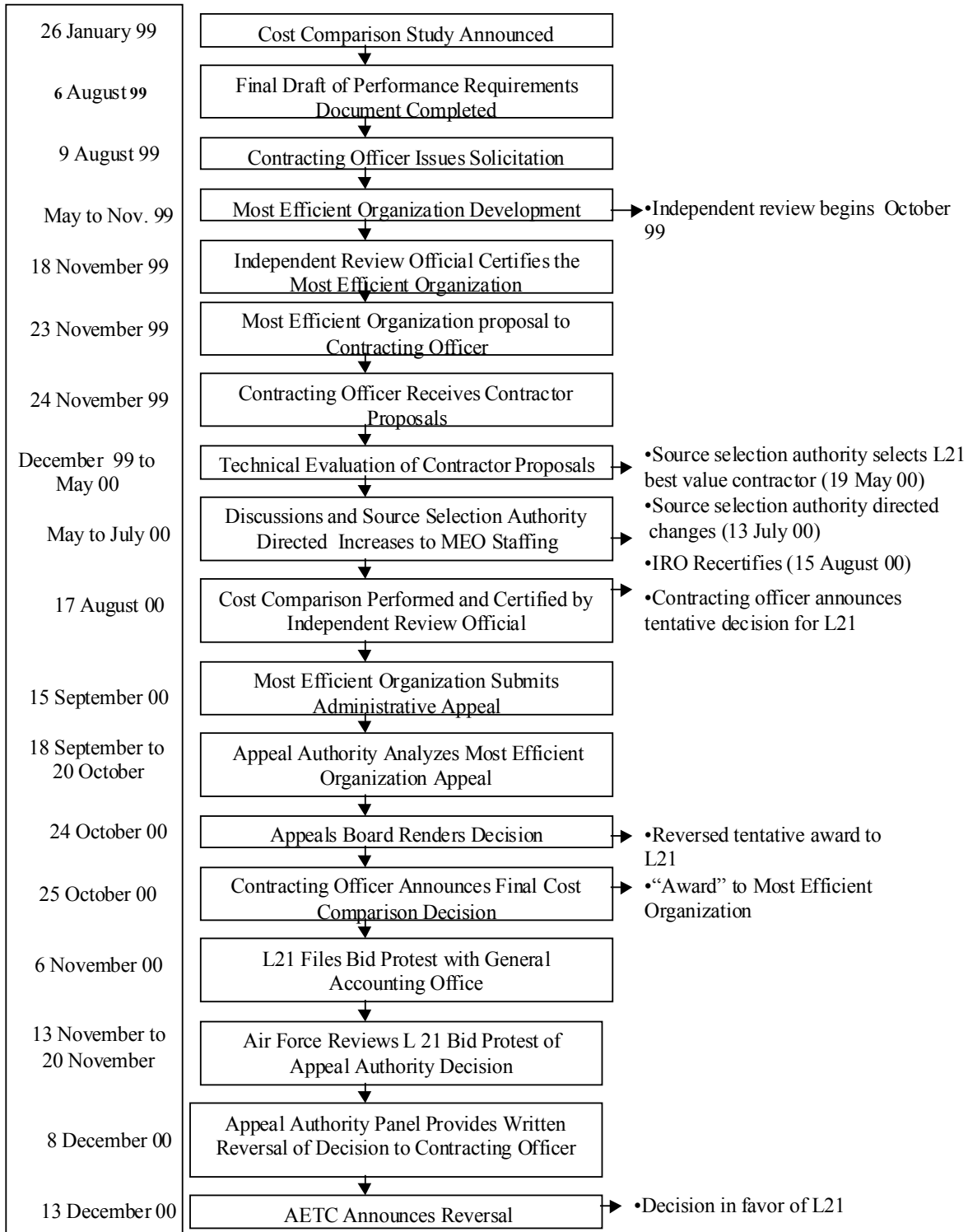
DoD Directive 5010.38, "Management Control (MC) Program," August 26, 1996, and DoD Instruction 5010.40, "Management Control (MC) Program Procedures," August 28, 1996, require DoD organizations to implement a comprehensive system of management controls that provides reasonable assurance that programs are operating as intended and to evaluate the adequacy of the controls.

Scope of Review of the Management Control Program. We reviewed the adequacy of the management controls at AETC and Lackland AFB as it relates to A-76 program and competition processes. Specifically, we reviewed AETC and Lackland AFB management controls over: PRD development and modification, MEO proposal development, independent review of MEO proposal, and the administrative appeal reviews. We reviewed management's self-evaluation applicable to those controls.

Adequacy of Management Controls. We identified material management control weaknesses for AETC and Lackland AFB as defined by DoD Instruction 5010.40. AETC and Lackland AFB did not develop or maintain management controls over A-76 program and competition processes. A copy of the report will be provided to the senior official responsible for management controls at the Air Force and recommendations to improve the overall Air Force A-76 program will be provided by separate correspondence.

Adequacy of Management's Self-Evaluation. AETC and Lackland AFB officials did not identify management controls over A-76 program and competition processes as an assessable unit and, therefore, did not identify the material management control weaknesses identified by this audit.

Appendix B. Chronology of Lackland AFB A-76 Competition



Appendix C. Analysis of Disputed Costing Items

Issues Reviewed. We examined a total of eight costing issues in the September 15, 2000, appeal by the affected Government workforce and the November 6, 2000, contractor bid protest, and validated \$* of the \$* in claimed adjustments. We analyzed solicitation documentation; and MEO, L21, and Phoenix Management proposal documentation. We also reviewed the source selection evaluation team, appeal review team, and contracting office documentation related to the issues. We did not attempt to verify or evaluate the MEO or contractor costing or technical proposal methodology. The results of our analysis are presented in Table 1.

Table 1. Summary of Disputed Costing Issues

<u>Source</u>	<u>Disputed Costing Issue</u>	<u>Amount Disputed (in millions)</u>	<u>Appeal Authority Adjustment (in millions)</u>	<u>Amount Substantiated By IG, DoD (in millions)</u>
Workforce appeal	Common costs in MEO proposal ^(a)	\$6.15	\$ *	\$ *
Workforce appeal	MEO personnel cost escalation ^(a)	1.88	None	*
Workforce appeal	Material and supplies in MEO proposal ^(a)	*	None	None
L21 protest	* (b)	*	None	(c)
L21 protest	* (b)	*	None	None
Workforce appeal	Verification of nine contractor proposal costing areas	(d)	(d)	(d)
Workforce appeal	Application of contract incentive fee ^(e)	9.50	None	None
L21 protest	Application of contract incentive fee ^(f)	*	*	Unknown ^(g)
Total		\$ *	\$ *	\$ *
^(a) Amount claimed as decrease to MEO proposed costs.				
^(b) Amount claimed as increase to MEO proposed costs.				
^(c) Air Force needs to resolve.				
^(d) No amount of contractor costs was specified in the workforce appeal. The appeal authority stated that all nine areas were verified. We were able to verify only 4 of the 9 areas.				
^(e) Amount claimed as increase to contractor costs entered on cost comparison form line 9.				
^(f) Amount claimed as decrease to contractor costs entered on cost comparison form line 9.				
^(g) Subject to adjustment pursuant to DoD guidance				

* Source selection or contractor proprietary information omitted.

Common Costs in MEO Proposal

Background. On the August 17, 2000, when the MEO cost proposal was opened, neither the AETC A-76 program office, the review officers, nor the contracting officer could determine precisely what common costs the MEO had included in its cost proposal. The contracting officer did not adjust the MEO proposal because of uncertainty about which MEO proposal costs corresponded with the “plugged number” contract line items. The MEO study team had included amounts from “plugged” line items because of the evaluation criteria in the Solicitation, section M. The solicitation specified that the “total proposal price” of the contractors would be “compared to the MEO’s total bid for all services.” With the AETC contracting officer having deleted the “plugged” line items from the contractors’ costs, the remaining MEO proposed common costs should also have been deleted.

MEO Common Costs. The affected Government workforce appeal claimed \$6.15 million in materiel, supply, and MEO subcontract costs as common costs that should be removed. The appeal authority approved \$ * for removal from the cost comparison. Our review concluded that approximately \$ * of the claimed costs were related to the “plugged” contract line items. Table 2 summarizes common costs by contract line item.

<u>Contract Line Item Number</u>	<u>Amount Appealed</u>	<u>Appeal Authority Adjustment</u>	<u>Amount Substantiated by IG, DoD</u>
0004 – Civil engineering projects between \$100,000 and \$500,000	\$ 275,000	None	None
0005 – Information technology refreshment	3,513,519	\$ *	\$ *
0006 – Government-directed travel	216,750	28,000	28,000
0008 – Replacement of Government-furnished base operations support equipment	1,922,716	*	*
0009 – Replacement of Government-furnished information technology equipment	225,500	None	None
Total	\$6,153,485	\$ *	\$ *

Civil Engineering Projects Between \$100,00 and \$500,000. Contract line item 0004 (and corresponding line items for each contract period) provided an estimated total price of \$12.9 million for project performance over \$100,000 but under \$500,000. The appeal claimed that the MEO overlooked \$275,000 included in its proposed subcontract work that mistakenly involved projects over

* Source selection or contractor proprietary information omitted.

\$100,000 but under \$500,000. The appeal amount was based on 5 percent of the amount estimated for all subcontracts. The review team denied the claim because this error or omission should have been considered and corrected prior to MEO proposal submission. The review team opined that an omission would occur when an item that should have been proposed was left out because of an incorrect assumption based on a reasonable good faith belief; or an error occurred when there was a obvious mistake (for example, a mathematical miscalculation). We could not substantiate the claim because the MEO study team was not responsive to our request for supporting documentation.

Information Technology Refreshment. Contract line item 0005 (and corresponding line items in each contract performance period) provided that information technology refreshment would be made on a cost reimbursable basis. The line items provided an estimated total price for information technology refreshment in the amount of \$12 million. The appeal stated the MEO proposal included \$3.51 million of common cost for information technology refreshment. Information technology refreshment was not defined in the solicitation. However, the PRD provided that software refreshment would occur 1 year after the latest release of software. The contracting officer's response to information request 309 defined information technology refreshment as preventative maintenance for an existing system¹⁸. The contracting officer and the AETC price analyst stated that all information technology maintenance and equipment costs borne by the service provider were covered by contract line item numbers 0005 and 0009. The appeal claimed the MEO proposal contained \$298,700 for three software licensing fees, \$1.4 million for repair and upgrade of servers in the MEO Operations Services Division, and \$1.81 million in service contracts for information technology refreshment to support the MEO Business Services Division. The MEO proposal included \$ *. We concluded that the * was within the scope of the contracting officer's definition of an information technology common cost. We do not agree with the appeal authority's disapproval of this amount.

The PRD identified the information technology service contracts as bridging contracts. Since the PRD allowed the MEO and contractor the option to contract out or perform the work included in the bridging contracts in-house, we believe that the claimed \$1.81 million MEO proposal cost was not a common cost and agree with the appeal authority.

The review team approved an adjustment of \$ * for two of the three licensing fees and rejected the remainder. The review team properly determined that a claimed software licensing fee contract * and did not constitute information refreshment. Similarly, maintenance service contracts were excluded.

Government-Directed Travel. The appeal states that all MEO proposed travel costs should be considered Government-directed to meet the requirements of the PRD. The MEO proposal includes \$ * for travel to the Pentagon, *. The review team approved a \$28,000 adjustment identified as Pentagon travel that was Government-directed. We determined that the solicitation contract line item 0006 (and corresponding line items in each contract performance period)

¹⁸ Our review concluded preventative maintenance was subject to varying interpretation.

* Source selection or contractor proprietary information omitted.

included not-to-exceed amounts totaling \$960,000 for Government-directed travel during the performance period, and that the PRD and the contracting officer response to information request 222, did not define common cost travel, or identify which travel qualified as Government-directed. *. We believe that the appeal authority-approved amount should be treated as a common cost.

Replacement of Government-Furnished Base Operations Support Equipment. Contract line item 0008 (and corresponding line items in each contract performance period) provided that the Government would reimburse the contractor for its costs for replacing such equipment. The line item sequence established a plugged price of \$9 million for the equipment. The appeal claimed the MEO proposal included \$1.92 million for replacement of Government-furnished equipment, including \$1.32 million for the Maintenance Division, \$1,650 for the Business Division, and \$599,500 for the Human Services Division. The appeal authority approved amounts for the Business and Human Services Divisions, and we agree with the approval rationale. The MEO study team also asserted that 10 percent of the material and supply costs for the Maintenance Division was for Government-furnished equipment replacement. Since the MEO proposal did not identify the portion attributable to equipment replacement and the MEO study team could not provide documentation to support the 10 percent estimate, we also agree with the appeal authority's disapproval of the amount claimed for the Maintenance Division.

Replacement of Government-Furnished Information Technology Equipment. Contract line item 0009 (and corresponding line items in each contract performance period) provides Government reimbursement to the contractor for replacing such equipment. The line item sequence established a plugged price of \$6 million for the equipment. The appeal stated that \$225,500 of the \$* proposed * costs for the MEO Human Services Division was for replacement of Government-furnished information technology equipment. The MEO study team stated that the amount included \$* for * required for the performance period. The review team denied the MEOs proposal to *. The MEO proposal did not breakdown the \$*, and the MEO study team could not provide documentation to support that information technology equipment was included in the proposal amount. Thus, we agree with the appeal authority's disapproval of the amount.

Other Cost Items

MEO Personnel Cost Escalation. The appeal claimed that the MEO cost proposal included \$1.88 million in escalation costs for * FTE positions covered by Service Contract Act provisions which were not subject to escalation. The appeal authority denied the request stating that the MEO team had previous opportunities to make the adjustment. The MEO team stated they were not aware of the overstatement until the bid was reviewed prior to the appeal submission. Our analysis determined that * of the * FTE positions were covered by the Service Contract Act provisions and * should not have been included in the escalation. We do not agree with the appeal authority's disapproval. We could not validate the remaining amount.

* Source selection or contractor proprietary information omitted.

MEO Material and Supply Costs. The appeal states that \$ * should be removed for four unrelated MEO proposal items. This amount includes \$1.25 million for * material and supplies, \$82,500 for asbestos *, * for hoist and crane maintenance, and \$40,000 for energy management. For * material and supplies, the solicitation states that the Government will provide an initial inventory at performance start, but does not estimate the amount of the initial supply inventory. The service provider is responsible for inventory replacement. *. The MEO study team states that the appeal claim was based on an expectation that the Government–furnished material and supplies *. We could not determine whether the supplies and materials offered would be sufficient for *. We agree with the appeal authority’s disapproval of the \$1.25 million.

For the \$82,500 claimed for asbestos *, we determined that the PRD requires the service provider to perform asbestos inspection and spot verification duties and to monitor asbestos abatement and disposal work performed by others. The contracting officer response to information request 446 indicated that asbestos abatement and asbestos disposal were not a PRD requirement. The MEO proposal included a \$15,000 per year asbestos related service contract that the MEO study team states was for asbestos *. We could not validate that the service contract was for * services. We agree with the appeal authority’s disapproval of the amount.

The appeal states that hoist and crane maintenance, and energy management functions were performed by service contracts that would render the required services prior to the start of the basic MEO performance period. The appeal authority denied the appeal, stating that the MEO study team had the opportunity to correct the cost proposal prior to submission. We could not validate the claimed costs for the hoist and crane maintenance and energy management, and for this reason, agree with the appeal authority’s disapproval of the amount.

MEO Material and Supply Cost Escalation. The L21 protest claimed that the MEO team failed to escalate material and supply costs by \$ * million during the performance period. We verified that the solicitation did not include an economic price adjustment clause. The MEO cost proposal for material and supplies was escalated for the base period, but did not include material escalation for the remaining performance periods. The contracting officer and price analyst stated that *. We believe the Air Force should take appropriate action to resolve this issue.

Vehicle Replacement Costs. The L21 protest states that the MEO did not include vehicle replacement costs. *. The solicitation requires Government–furnished vehicle replacement at contractor expense. Solicitation amendment 16 increased Government–furnished vehicles from 421 to 479. The source selection evaluation team reviewed the MEO vehicle proposal and did not take issue with the final MEO vehicle estimate. The source selection evaluation team documentation includes * evaluation notices and MEO responses relating to the number and usage of proposed vehicles. The MEO study team evaluation notice responses state that * because solicitation amendment 16 increases the number of

* Source selection or contractor proprietary information omitted.

Government-furnished vehicles^{*}. We believe the MEO vehicle proposal is sufficient based on the source selection evaluation team technical analysis.

Verification of Contractor Proposal Costs. The appeal requested validation of nine contractor costing areas. The appeal authority denied the claim stating the review team verified the contractor cost areas. In response to our questions, the review team chief was unable to provide documentation (audit trail) supporting the verification of the nine areas. The review team chief states that he did not have time to examine the nine areas and had to obtain assistance from the AETC price analyst and source selection evaluation team personnel. In response to our request for verification, the contracting officer and price analyst verified that the contractor's proposal contained costs for four of the nine areas. For the five unverified areas, the AETC contracting officer and price analyst stated that it was^{*}. We could not determine a cost impact for the five unverified cost areas because^{*} to verify cost components. Table 3 summarizes the nine validation areas.

Table 3. Review of Appeal for Validation of Contractor Proposed Work

<u>Contractor Costing Areas in Appeal</u>	<u>Costing Area Verified by Appeal Authority</u>	<u>Costing Area Verified by Contracting Officer</u>
*	Yes**	Yes
*	Yes**	No
*	Yes**	Yes
*	Yes**	Yes
*	Yes**	No
*	Yes**	No
*	Yes**	No
*	Yes**	No
*	Yes**	Yes

*Source selection or contractor proprietary information omitted.

**No audit trail to support verification

We do not believe verification of contractor proposal costs is a matter that can be appealed under A-76 procedures. The adequacy of a contractor's proposal and whether it includes all costs to perform the PRD are matters to be resolved during the evaluation of contractor proposals. We believe the Air Force should reexamine the five costing areas to determine whether any adjustments are warranted, should the Air Force decide to amend the solicitation and seek revised proposals from offerors.

Application of Contract Incentive Fee. The affected Government workforce appeal requests an upward adjustment of \$9.5 million for contractor costs entered on line 9 of the cost comparison form. The appeal amount was based on a cost scenario, which applied 65 percent of an estimated maximum incentive fee, assuming a 20 percent contractor under run. The appeal also took issue

^{*} Source selection or contractor proprietary information omitted.

with the fact that no maximum fee existed. The review team denied the appeal upholding the initial determination of the contracting officer to apply a fee representing 100 percent of the target fee without consideration of a potential under or over run. The review team noted that no over or under run precedence existed at AETC for a cost-plus-incentive fee contract and that the target cost was the AETC best estimate of contractor performance. The L21 bid protest claimed that the appeal authority was correct in denying the workforce appeal, but should apply a 35 percent reduction to the target fee, which the contractor claimed was the actual maximum incentive fee. Thus, L21 claimed its cost comparison form line 9 cost were overstated by \$ *. On December 13, 2000, the appeal authority agreed with the L21 bid protest. The appeal authority directed that only 65 percent of the incentive fee should be included in the contractor's costs stated in the cost comparison, which resulted in the \$ * reduction. Basing the incentive fee for cost comparison purposes solely at 65 percent of the target fee without determining the maximum fee, however, does not fully comport with A-76 guidance.

One alternative might be to adjust the contractor's cost of performance on the cost comparison form to reflect the cost the Government would incur if the contractor earns the 65 percent incentive fee. This can result in unpredictable results. * ¹⁹. This alternative does not comport with A-76 guidance as the Circular does not specifically authorize making adjustments to the contractor's price based upon the incentive fee to be included in the cost comparison.

The contracting officer originally included the full incentive fee in the cost comparison after concluding L21 would earn the target fee based upon its past performance history. According to the contracting officer, application of quality assurance factors on past contracts had resulted in about a 10 percent reduction in the actual fee after cost/savings sharing. If the contractor would incur a 10 percent reduction for quality assurance factors, then the likely fee assuming L21 achieves the target fee based upon cost savings, would be \$ *. Based on the above, the fee applied by the appeal authority may have understated likely contractor cost on the cost comparison form by \$ *. This alternative, however, does not take into account the A-76 guidance that the incentive fee must be based upon 65 percent of the maximum potential fee.

As none of these alternatives described above, to include the Air Force's mechanical application of 65 percent without a determination of the maximum potential fee, fully comports with the A-76 guidance, we believe DoD needs to provide guidance on this issue based upon 65 percent of the maximum potential fee based upon 65 percent of the maximum potential fee.

* Source selection or contractor proprietary information omitted.

¹⁹ The example assumes that the contractor would receive no reduction for quality in the quality analysis portion of the fee calculation after determination of the incentive fee applied after cost sharing. If it is assumed that a 10 percent reduction of fee for quality was applied after cost sharing, a 65 percent target fee would be achieved if the contractor over ran target cost by \$ [source selection information omitted] with the contractor sharing half the cost and the Government incurring the remainder (\$ [source selection information omitted]).

Appendix D. Analysis of Directed Increase to Most Efficient Organization

Source Selection Authority-Directed Increase. On July 13, 2000, the source selection authority directed an increase of * FTE positions to the MEO to perform the PRD requirements. The increases affected * functional areas. The affected Government employees appealed * FTE positions added in * functional areas.

Inspector General, DoD, Review of Appealed Increases. We concluded that adequate justification does not exist for * of the * FTE positions in the appeal. The * FTE positions increased the MEO proposal by about \$ *. We analyzed portions of the solicitation, the PRD; MEO, L21 and Phoenix Management proposals; and the source selection evaluation team, review team, and the contracting office documentation related to the functional areas. Table 4 summarizes the results of our review.

* Source selection or contractor proprietary information omitted.

Table 4. Analysis of Appealed FTE Positions in MEO			
<u>Functional Area</u>	<u>FTE Appealed</u>	<u>FTE Positions Unsupported per IG, DoD</u>	<u>Inspector General, DoD, Rationale for Conclusion</u>
Manpower and training	*	0.00	Increase based on supported analysis
Flight records *	*	0.00	Increase based on supported analysis
Tuition assistance	*	*	Increase above historical data
Maintenance, hospital	**	0.00	Increase to historical data
Maintenance, general	*	*	Increase to historical data for another element
Maintenance, military family housing	*	*	Housing reductions not considered; disparate treatment of proposals
Maintenance, roads and grounds	*	0.00	Increase to historical data
Warehouse and distribution	*	*	PRD had no baseline
Project design and construction	*	*	Source selection evaluation team could not justify increase
Network *	*	*	Increase above historical data
Comprehensive base planning	*	*	Increase above historical data
Total FTE positions	*	*	
Estimated (decrease) to MEO proposal (in millions)	(\$ *)	(\$ *)***	
Notes:			
*Source selection or contractor proprietary information omitted.			
**The appeal authority partially sustained the appeal for hospital maintenance and removed 7 FTE positions and later reversed the removal.			
***Based on average FTE cost of \$288,978 per position (including OMB Circular A-76 overhead of 12 percent).			

Manpower and Training. The source selection authority directed that the MEO staffing for this function be increased from * FTE positions because the MEO study team had “failed to justify how they will successfully utilize * to accomplish manpower and training responsibilities as prescribed in their proposal.” We determined that the PRD includes no baseline for training requirements. The source selection evaluation team issued * evaluation notices for the MEO * program and * evaluation notice for the MEO * program. The MEO study team provided a detailed response regarding the * program but was not specific in responses to the *. The source selection evaluation team

* Source selection or contractor proprietary information omitted.

supported the recommended increase in its evaluation notice and assessment file. We concluded that the source selection authority-directed increase of * was supported.

Flight Records * . The source selection authority directed that the MEO staffing be increased from * to * FTE positions because the MEO calculations were inconsistent with Air Force Instruction 11-401 and workload data for verifying over 1,200 flight records. The PRD contained flight record workload data but did not include historical hours to perform the function. The source selection evaluation team believed that the MEO did not have adequate manpower to perform the PRD duties and made numerous evaluation notice requests relating to the function. We do not take exception to the directed increase.

Tuition Assistance. The MEO originally included * FTE positions for the tuition assistance function. The source selection authority directed an increase of an additional * FTE positions because “The offeror reduced man-hours provided in the PRD for tuition assistance informal/formal contacts, based on information from their functional experts, neglecting the data provided in the PRD.” The source selection evaluation team based its calculation on an average of * hours rather than 8,592 hours for formal and informal tuition assistance customer contacts. The historical workload data in the PRD contains hourly totals for FY 1997, FY 1998 and the first quarter of FY 1999 which, when averaged, totaled 8,592 hours. * . We concluded that part of the source selection evaluation team-directed increase (* FTE positions) was unsupported because it exceeded requirements based on the average PRD historical workload data for FYs 1997 through 1999.

Hospital Maintenance. The source selection authority directed an additional * FTE position increase in MEO staffing because the MEO study team did not use the personnel hour calculations identified in the PRD. We do not take exception to the directed increase because:

- The increase was based on historical data and traceable to the PRD;
- The source selection evaluation team calculation of the PRD and directed change estimates were kept in the source selection evaluation team assessment file.
- The source selection evaluation team asked the MEO team to provide support for its estimate during the second and third rounds of evaluation notices and the MEO team did not provide clear responses to the source selection evaluation team questions.
- The MEO study team stated that it would subcontract all proposed hospital maintenance work over * hours (a total of approximately * hours), but we could not trace the offloaded work to the list of MEO proposed subcontracts.

General Maintenance. The source selection authority added * FTE positions to the MEO for general and military family housing maintenance because “Man-

* Source selection or contractor proprietary information omitted.

hour calculations identified in the PRD were not used in justifying their manning.” The MEO study team apportioned * of the additional * FTE positions to the general maintenance group. We agree with the MEO study team apportionment. We identified in the PRD historical hours used for the source selection authority-directed increase, * FTE positions attributable to * function. The * FTE positions should not have been added to the general maintenance group, as the MEO * function. Since the source selection evaluation team took no exception to the staffing *, we concluded that the * FTE portion of the directed increase was unsupported.

We also concluded that an additional undetermined amount of historical hours not appropriate to the general maintenance group might also have been included in the directed increase. Historical workload for * maintenance was imbedded in the same PRD hours even though the MEO organization * maintenance. Since the source selection evaluation team took no exception to the staffing of the * group, we concluded that a portion of the directed increase was unsupported, but we could not determine the amount of * workload that was unsupported.

Military Family Housing Maintenance. The MEO apportioned * of the source selection authority directed * FTE position increase, to military family housing maintenance as based on identified historical hours. The PRD workload data of 50,790 hours was based on 720 housing units. Information request response 6 clearly states that housing units subject to maintenance would decrease to 448 units for initial contract performance because of privatization and demolition²⁰. The MEO stated that its initial military family housing maintenance proposal of * FTE positions was based on a * unit requirement. *. The information request response, and representations made during site visits clearly indicate a significant decrease in the number of housing units to be maintained prior to the completion of the A-76 competition at Lackland²¹. The source selection evaluation team review of the MEO proposal did not include a review of pertinent information requests. Further, the source selection evaluation team issued no evaluation notices to the MEO study team * pertaining specifically to military family housing maintenance or requirements *. We concluded the source selection authority directed increase was overstated by * FTE positions.

Roads and Grounds Maintenance. The justification for the source selection authority-directed adjustment stated: “FTEs in this (roads and grounds maintenance) division are not justified. Man-hour calculations identified in the PRD were not used in justifying their manning. Increase FTEs in the following areas: Roads and Grounds additional * FTEs.” The MEO study team stated that its proposal was efficient and required fewer FTE positions than the existing

* Source selection or contractor proprietary information omitted.

²⁰ Offerors had been advised during site visits of the Air Force’s housing privatization initiatives. Information request 6 stated that 321 new privatized homes were under construction at Lackland AFB and that 272 homes at the Lackland South Wherry development would be demolished in spring 2000 and replaced with 99 privatized units by spring 2001. Another 124 homes were to be privatized at the Lackland Capehart development in 2002.

²¹ Lackland AFB housing personnel involved in the PRD development agreed that the PRD should have reflected a decreased number of housing units.

structure. In a series of evaluation notices, the source selection evaluation team asked the MEO team for numerous clarifications and discussions so that the source selection evaluation team could fully comprehend how roads and grounds performance requirements could be achieved with less manpower than historically used. According to source selection evaluation team personnel, MEO team officials did not credibly show where, or document how, it could structure such efficiencies into the MEO. Consequently, the source selection authority directed the MEO team to bid to historical workload requirements. The directed increase was based on historical data and traceable to the PRD. The source selection evaluation team also kept its calculation of the required adjustment in the source selection evaluation team assessment file. We do not take exception to the directed increase because the MEO team did not bid to the historical workload data in the PRD.

Warehouse and Distribution. The justification for the source selection authority-directed adjustment states:

** are insufficient manning to support AIA (Air Intelligence Agency), Lackland, and Kelly repair cycle, FAST (forward assets warehouse), Awaiting Parts, and Time compliance Technical Orders functions as identified in the PRD, more specifically, repair cycle requirements...To successfully accomplish the workload as identified by the PRD requires an additional *, bringing the total number of FTEs for this area to *.*

The MEO study team proposed manning based upon * applied to historical repair line items requirements. The source selection evaluation team did not take exception *. Source selection evaluation team evaluators agreed on the need for the directed increase but lacked consensus on whether the MEO structure should be * or * FTE positions. The primary source selection evaluation team evaluator stated that the PRD was vague and did not specify cycle time per item or historical work hours. He based the recommendation for the * FTE directed increase on prior experience. The source selection evaluation team issued * evaluation notices to the MEO study team on this area. The review team found no factual error with the source selection authority decision to direct the MEO to add the * FTE positions and stated the MEO did not show how the work would be completed with only * FTE positions. We concluded the source selection authority increase of the * FTE addition was not adequately supported by the one source selection evaluation team evaluator and that documentation on the * FTE was not traceable to the PRD workload data.

Project Design and Construction. The justification for the source selection authority-directed adjustment states that:

The offeror's attempt at explaining how they will use innovations to reduce engineering oversight and the impact this had on their manpower calculations for the entire design and construction branch are inadequate. In the process of trying to justify how their manpower calculations support their assertion regarding reduced engineering oversight, they reduced/adjusted their manpower calculations for project design/acquisition without

* Source selection or contractor proprietary information omitted.

*providing rationale for this change. For instance, in the last proposal amendment, the offeror changed the number of projects worked for engineers from * to *, without providing adequate justification as to why this reduction was made. Using the workload data provided in the PRD, which shows an average of 60 projects per year (for projects between \$100,000 and \$500,000), the offerors proposal needs to be increased by 7.5 FTEs in this area.*

Contract line item 0004 (and corresponding line items for each contract period) provided an estimated total price of \$12.9 million²² for performance of projects over \$100,000 but under \$500,000. The PRD furnished historical workload tables for FYs 1996 through 1998 for Lackland and Kelly AFB design and construction projects. The tables show a complexity index for each of the projects but did not specify the total number of yearly projects. The source selection evaluation team estimated workload level of 60 projects was not documented in source selection evaluation team files. (We estimated the PRD workload at 63.7 projects per year.) The MEO proposed a design and construction group to design and monitor all projects, regardless of size. The MEO proposed * FTE positions in the group, including *. The source selection evaluation team was concerned about the adequacy of construction management and design and issued a number of evaluation notices asking for an explanation of how the MEO proposed to perform the construction management and design. However, no source selection evaluation team evaluation notice addressed MEO study team project baseline estimates²³. The source selection evaluation team did not perform a calculation of the number of projects an engineer could handle. The source selection evaluation team evaluator stated to us that an engineering FTE position could cover * projects, but retracted the statement when it was pointed out that such a standard would mean the allocated MEO staffing would justify a 60 project per year baseline. The source selection evaluation team evaluator was satisfied that the MEO could perform if the number of FTE positions was simply *. The source selection evaluation team calculation of its directed change recommendation was not documented. We concluded that the source selection authority increase of * FTE positions was unsupported. However, as there was no independent determination of the number of projects an engineer could handle, we are unable to determine whether the MEO's staffing is adequate.

Network *. The justification for the source selection authority-directed adjustment for the communication and information technology network * function stated that:

* Source selection or contractor proprietary information omitted.

²² Amount noted per solicitation amendment 13. The initial line item number 0004 sequence limited estimated funding to \$19,876,000.

²³ The MEO study team stated that while they relied on the contract line item limitation, they performed a highly detailed calculation method to reach the initial [source selection information omitted] project estimate and the revised [source selection information omitted] project estimate. We did not validate the method.

*The workload data captures approximately 70% of the trouble calls and work orders generated on Lackland. It doesn't capture the entire workload for Lackland and Kelly. Adding in another 30% for the underrepresented Lackland workload plus another 20% for the addition of Kelly workload.... Increase the total FTEs in this area by *.*

The appeal challenged * FTE positions added by the source selection authority. The source selection evaluation team performed no written analysis to support the amount of workload data used in the directed change. No modification to the PRD was made to reflect the directed workload increase. Our review of information request responses relating to communication and information technology issues indicated no clarification of the PRD workload data. The source selection evaluation team evaluator agreed that the directed increases were above the stated PRD requirements but believed that the PRD was incomplete. Cost comparisons must be based upon the PRD that establishes the same scope of work and performance requirements for the MEO and contractors. We concluded that the * FTE positions were not adequately supported and was not part of the PRD workload level.

Comprehensive Base Planning. The justification for the source selection authority adjustment stated, "The offeror failed to include in their workload calculations the services listed in PRD paragraphs 8.3.2.5 through 8.3.2.11. Increase FTEs in this area by *." The PRD did not include workload data for the requirement. The source selection evaluation team believed that the MEO did not have adequate manpower to perform the stated PRD duties but had sent no evaluation notice relating to the functions referenced in the directed increase. In addition, the source selection evaluation team had no analysis prepared to support * at the time of the recommended increase. The source selection evaluation team evaluator stated to us that PRD sections 8.3.2.5 through 8.3.2.7 of the "missing" workload were located in another section of the MEO proposal after the directed increase occurred. However, the source selection evaluation team did not request the source selection authority to revise the directed increase. We concluded that the source selection authority directed increase of * was unsupported.

* Source selection or contractor proprietary information omitted.

Appendix E. Report Distribution

Office of the Secretary of Defense

Under Secretary of Defense (Acquisition, Technology, and Logistics)
Deputy Under Secretary of Defense (Installations)

Department of the Air Force

Secretary of the Air Force
Assistant Secretary of the Air Force (Financial Management and Comptroller)
Auditor General, Department of the Air Force*

Non-Defense Federal Organizations and Individuals

Office of Management and Budget*

Congressional Committees and Subcommittees, Chairman and Ranking Minority Member

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations*
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations*
House Committee on Armed Services
House Committee on Government Reform
House Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations, Committee on Government Reform*
House Subcommittee on Technology and Procurement Policy, Committee on Government Reform*
House Subcommittee on National Security, Veterans Affairs, and International Relations, Committee on Government Reform*
Senator Phil Gramm*
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Representative Henry Bonilla*
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Representative Charles A. Gonzalez*
Representative Ciro D. Rodriguez*

*Copies with contractor proprietary and procurement sensitive data redacted.

Audit Team Members

The Contract Management Directorate, Office of the Assistant Inspector General for Auditing, DoD, prepared this report. Personnel of the Office of the Inspector General, DoD, who contributed to the report, are listed below.

Paul J. Granetto
Garold E. Stephenson
Benjamin A. Mehlman
Harvey I. Gates
Arsenio M. Sebastian
Robert E. Bender
Donna L. Starcher
Tracy L. Simmons
Andrew D. Greene
Lynne M. Thomas
Kimberly Haines
Frank C. Sonsini